

**STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL**

**Implementation of Section 8 and Section 54 of Public : DOCKET NO. 346
Act No. 07-242 An Act Concerning Electricity and :
Energy Efficiency :
: JULY 29, 2009**

**THE UNITED ILLUMINATING COMPANY'S
POST HEARING BRIEF**

The United Illuminating Company (“UI”) hereby responds to certain matters raised during the Connecticut Siting Council’s (the “Council”) public hearing held June 29, 2009, in Docket No. 346, concerning the Implementation of Section 8 and Section 54 of Public Act No. 07-242, *An Act Concerning Electricity and Energy Efficiency* (the “Act”).

I. Finalizing the scope of these proceedings.

At the beginning of the hearing, in the context of reviewing Environmental Energy Solutions’ late-filed motion to reconsider the White Paper’s scope, the Council and the participants discussed whether natural disasters and reliability issues should be included explicitly within the scope of the White Paper. *See* 6/29/09 Tr. at 6-21. Natural disasters and general reliability issues are outside the scope of this hearing on energy security issues and UI asks the Council not to include these topics in the White Paper. As stated in its June 22, 2009 comments on the Council’s White Paper, UI endorses the draft White Paper’s language that reads:

Pursuant to legislative intent of the Act, this document will review existing regulations and guidelines regarding security for the siting of electric generating and transmission facilities. Security in this document *will only relate to intentional physical threats to a facility*... Siting security in this document *does not relate to operational, reliability, and maintenance procedures asset connection requirements, or naturally-caused calamities* (i.e. hurricanes or ice storms).

White Paper at 1 (emphasis added).

These reasonable limitations on the scope of the docket are in keeping with the specific language of Section 8 of the Act, which requires the Council to “investigate energy security with regard to the siting of electric generating facilities and transmission facilities, including consideration of planning, preparedness, response and recovery capabilities.” As UI and The Connecticut Light and Power Company (“CL&P”) argued in their December 2, 2008 Joint Memorandum regarding the scope of the hearing, the narrow language of Section 8 suggests that the scope of this docket should be similarly narrow. The scope of the hearing should therefore focus on how the Council may best address security aspects of siting applications and petitions submitted to the Council for approval, in light of existing federal, regional and industry standards. The Council should not assume the burden of becoming experts on security issues without an unambiguous statutory directive. No such clear mandate is provided by the Act.

In sum, UI supports the draft White Paper’s limitations on the scope to intentional physical threats to a facility, and not “cyber” threats to a facility, or operational, reliability, maintenance procedure, asset connection requirements, or natural disaster issues, and recommends that the Council not reopen what the parties thought was a settled issue on the narrow scope of these proceedings.

II. Safeguarding information produced and discussed during the Council’s investigation of energy security issues.

During her discussion with the CL&P panel of witnesses, Council Member Bell referenced the Council’s recently adopted procedures for protection of confidential information. *See* 6/29/09 Tr. at 58-59. The Council adopted its “Procedures for Filing Proprietary Information Under Protective Order” in April 2009 (hereinafter the “Protective Order Procedures”). UI

respectfully submits the following comments on the applicability of the Protective Order Procedures to documents and testimony pertaining to energy security issues.

First, UI reiterates its suggestion from its June 22, 2009 Comments on the draft White Paper that because all of the energy security topics covered by the draft White Paper are inherently highly sensitive and confidential, applicants could be automatically granted permission to file the sections of their applications addressing energy security issues pursuant to a protective order. Similarly, if the Council issues interrogatories to an applicant pertaining to the topics outlined in the White Paper, the applicant again could automatically have permission to file its responses under seal pursuant to a protective order. The Council could also develop its own standard Protective Order, Nondisclosure Agreement, and Request for Information that would apply to all documents submitted to the Council on energy security issues. Standardizing some of these documents and automatically granting energy security related submissions protected status would alleviate some of the administrative burdens on applicants for complying with the White Paper.

Second, while the Council's Protective Order Procedures provide adequate procedures for how the applicant should handle and protect the documents it submits to the Council, these procedures do not explicitly address how these documents should be handled and securely stored at the Council after submission. As explained in UI's Comments on the draft White Paper, the Council may wish to consider formalizing its own internal procedures for the handling and safekeeping of this highly sensitive and confidential information, perhaps as part of the Protective Order Procedures.

III. Topics or areas of inquiry the Council might want to consider when reviewing future applications for energy security issues.

During the hearing, Vice-Chairman Tait requested that the parties provide guidance on what topics or general areas of inquiry the Council should be investigating and asking about when reviewing applications through the lens of energy security issues. *See, e.g.,* 6/29/09 Tr. at 99, 113, 114, 151-52, 167. The draft White Paper provides a good check-list of the possible topics and general areas of inquiry that the Council could investigate during the course of an application. *See* White Paper at 4-5. The specific questions that arise from this list of general discussion topics will vary from application to application, depending on the type of infrastructure (e.g., substation vs. transmission line vs. generating facility), its precise location (e.g., urban vs. rural, coastal vs. inland, isolated vs. multiple modes of possible access), its design and configuration, and the like. UI supports the concept that, after reviewing a company's application, the Council may utilize its discretion to further probe these siting security topics where necessary, but need not further examine these issues in every application. Additionally, the Council should continue to seek guidance and assistance, where appropriate, from the Connecticut Department of Emergency Management and Homeland Security.

IV. Conclusion

The draft White Paper furthers the goal of enhancing the security of our energy infrastructure, and takes advantage of the Council's unique expertise in the siting of electric facilities in light of existing federal, regional and industry standards. The scope of the White Paper has been reasonably limited to consideration of intentional physical threats to electric facilities. The outline of energy security-related topics in the draft White Paper provides an appropriate starting point for the Council's investigation and general inquiry on these issues in applications where such investigation may be necessary.

Respectfully submitted,

THE UNITED ILLUMINATING COMPANY

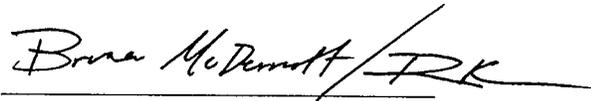
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CERTIFICATION

This is to certify that on this 29th day of July, 2009, an original and twenty (20) copies of the foregoing were delivered by hand to The Connecticut Siting Council, 10 Franklin Square, New Britain, Connecticut 06051, one copy was served on all other known parties and intervenors by depositing the same in the United States mail, first class postage prepaid on this 29th day of July, 2009 and an electronic copy was provided to the Connecticut Siting Council and all other known parties and intervenors.


Bruce L. McDermott